

Message Text

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PAGE 01 SAN JO 02195 190045 Z

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FM AMEMBASSY SAN JOSE

TO SECSTATE WASHDC PRIORITY 4325

C O N F I D E N T I A L SAN JOSE 2195

EXDIS

E. O. 11652: GDS

TAGS: PGOV, PFOR, CS

SUBJECT: EXTRADITION: ROBERT VESCO

REF: SAN JOSE 2182

1. ODIO HAS NOW GIVEN ME DRAFT OF THE MEMORIAL WHICH I
WOULD USE IN PRESENTING APPEAL TO WOR SALA SUGUNDA PENAL

THIS MESSAGE DESCRIBES THE DRAFT AND REQUESTS COMMENT
ON ONE SECTION OF IT. I WILL PROVIDE OTHER COMMENTS AND
RECOMMENDATIONS IN A SEPARATE MESSAGE WHICH SHOULD BE READ
WITH THIS ONE.

2. MOST OF THE MEMORIAL IS A RECITATION OF DEVELOPMENTS
THUS FAR AND OF THE TREATY PROVISIONS UNDER WHICH WE RE-
QUESTED PRELIMINARY ARREST. IT ALSO QUOTES IN THEIR
ENTIRETY THE U. S. ARREST WARRANT AND INDICTMENT
AGAINST VESCO.

3. OHE MEMORIAL EMPHASIZES THAT OUR REQUEST FOR
PRELIMIARY ARREST IS FOUNDED IN PARA 3, ARTICLE XI OF
EXTRADITION TREATY. IT POINTS OUT THAT WE ARE PREPARED
TO PROVIDE DOCUMENTARY EVIDENCE TO SUPPORT CHARGES, BUT
THAT UNDER ARTICLE XII WE SHOULD HAVE TWO MONTHS TO DO
SO AFTER ARREST IS MADE BEFORE FINAL DECISION ON EXTRA-
DITION.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 SAN JO 02195 190045 Z

4. THE MEMORIAL INSISTS THAT THE JUDGE' S REFUSAL TO ADMIT OUR CASE FOR APPEAL IS NO MERE " TRAMITE" BUT IN FACT GOES TO THE SUBSTANCE OF OUR REQUEST FOR PRELIMIARY ARREST.

5. THE MEMORIAL ANTICIPATES POSSIBLE ARGUMENT (WHICH HAS ALREADY BEEN ENTERTAINED IN PRESS) THAT THE CASE CAN NOT BE PURSUED SINCE VESCO IS ALREADY OUT OF THE COUNTRY. IT POINTS OUT THAT HE HAS GREAT FACILITY FOR RAPID MOVEMENT, HAS A LEGAL RESIDEPCE IN COSTA RICA, AS WELL AS A COSTA RICAN PASSPORT, AND THAT IT IS THEREFORE DESIRABLE IN ANY CASE TO ISSUE A PRELIMINARY ARREST WARRANT IN CASE HE RETURNS HERE.

6. THERE FOLLOWS A FREE TRANSLATION OF A PART OF ODIO' S DRAFT ON WHICH I WOULD WELCOME DEPARTMENT' S COMMENT:

QTE WHILE THE EXTRADITION LAW REQUIRES THAT THE GOVERNMENT WHICH RELIES UPON IT TO REQUEST THAT A PERSON BE EXTRADITED SHOULD PRESENT WITH HIS APPLICATION THE UNDERLYING DOCUMENTS (ARTICLE V IN RELATION TO ARTICLE 7, PARA. C), THE EXTRADITION TREATY OFFERS TO THE CONTRACTING PARTIES THE PRIVILEGE OF PROCEEDING WITH THE PROCESS AND ORDERING PROVISIONAL ARREST, BASED ONLY ON THE SWORN STATEMENT OF A DIPLOMATIC AGENT. OF COURSE THAT DECLARATION IS ACCEPTED ONLY FOR PURPOSES OF THE PROVISIONAL DETENTION AND THUS TO AOID RENDERING THE ENTIRE PROCESS OF EXTRADITION ILLUSORY. ONCE THE DETENTION HAS BEEN EFFECTED, THE REQUESTING GOVERNMENT IS GRANTED TWO MONTHS TO PRESENT PROOFS OF DEFENDANT' S GUILT (ARTICLE 12), AND ONLY IN VIEW OF THOSE PROOFS MAY BE PROPRIETY OR IMPROPRIETY OF EXTRADITION BE RESOLVED.

QTE THAT IS THE CORRECT INTERPRETATION OF THE TREATY. MY GOVERNMENT CANNOT ACCEPT THE INTERPRETATION GIVEN TO IT BY THE JUDGE. WE CANNOT, SHOULD NOT, AND WILL NOT WEAKEN THE DISPOSITIONS OF THE TREATY, AND WE INSIST THAT THE OTHER CONTRACTING PARTY, AS LONG AS THE TREATY REMAINS IN FORCE, FOLLOW THE AGREEMENT FULLY. WE INSIST ON THIS INTERPRETATION IN ACCORDANCE WITH THE TREATY

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 SAN JO 02195 190045 Z

ITSELF RATHER THAN THE SPECIFIC CASE WHICH NOW CONCERNS US.

QTE IN OTHER WORDS, THE GOVERNMENT OF THE USA HAS BEEN DISPOSED AS LONG AS THE TREATY HAS BEEN IN FORCE TO OFFER TO THE GOVERNMENT OF COSTA RICA ITS COOPERATION IN ORDERING THE PROVISIONAL ARREST OF A DEFENDANT WHOSE EXTRADITION MAY

BE REQUESTED, BASED ONLY ON THE SWORN DECLARATION OF ITS DIPLOMATIC AGENT, AND IT REQUESTS RECIPROCITY OF TREATMENT WHETHER THE SUBJECT IS ROBERT L. VESCO OR SOME OTHER DEFENDANT. UNQTE

PLEASE DELIVER AT OPENING OF BUSINESS TUESDAY JUNE 19.

VAKY

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*** Current Handling Restrictions *** EXDIS

*** Current Classification *** CONFIDENTIAL

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